

Message Text

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TO USMISSION USUN NEW YORK
INFO USMISSION GENEVA

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E.O. 11652: N/A

TAGS: ITU, ETEL, AORG, UNOP

SUBJECT:ITU CONSIDERATION OF JOINT INSPECTION UNIT STATUTE

REF: A) GENEVA 4733 B) GENEVA 3794 C) STATE 112799

1. THE 32ND ADMINISTRATIVE COUNCIL OF THE ITU IN GENEVA
(MAY 23-JUNE 10) AFTER LENGTHY DISCUSSION DECIDED NOT TO
APPROVE THE NEW JIU STATUTE AND INSTRUCTED THE SECRETARY
GENERAL TO CONTACT THE UN LEGAL ADVISER TO SEE IF RESERVA-
TIONS ARE POSSIBLE ON CERTAIN POINTS WHICH SPECIFICALLY
AFFECTED ITU.

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2. PRIOR TO SESSION, ITU SECRETARIAT INFORMED US (REFTEL
B) OF ITS DIFFICULTIES WITH ACCEPTANCE OF THE STATUTE IN
FULL.

3. DEPT. AGREED THAT THREE PROVISIONS OF JIU STATUTE WOULD
CREATE DIFFICULTY FOR ITU:

--THE ADMINISTRATIVE COUNCIL COULD NOT MAKE THE JIU A "SUBSIDIARY ORGAN" OF THE ITU AS THE STATUTE PROVIDES. THE PLENIPOTENTIARY CONFERENCE OF ITU, WHICH COULD DO THIS, DOESN'T MEET AGAIN UNTIL 1980-1982 TIME FRAME.

--THE JIU STATUTE PROVIDES (ARTICLE 11.4) THAT REPORTS OF THE JIU WILL BE SUBMITTED BY AN ORGANIZATION'S SECRETARIAT TO THE ENTIRE MEMBERSHIP WITHOUT DELAY. A RESOLUTION OF THE LAST PLENIPOTENTIARY CONFERENCE (1973) PROVIDES THAT REPORTS OF THE JIU WOULD BE SUBMITTED TO THE COUNCIL FOR ITS CONSIDERATION.

--ARTICLE 6 OF THE STATUTE GIVES THE JIU ACCESS TO ALL RELEVANT ITU INFORMATION, PRESUMABLY INCLUDING CONFIDENTIAL INFORMATION CONCERNING THE WORK OF THE INTERNATIONAL FREQUENCY REGULATION BOARD. RELEASE OF THIS INFORMATION COULD BE DAMAGING TO THE INTERESTS OF THE US AND THE EFFECTIVENESS OF THE ITU.

4. HOWEVER, DEPT. DESIRES TO ASSURE CONTINUED COOPERATION BETWEEN JIU AND ITU. THEREFORE, DEPT. SUGGESTED COUNCIL ACCEPT JIU STATUTE WITH THREE RESERVATIONS: THAT JIU NOT BECOME A SUBSIDIARY ORGAN UNTIL SO DECIDED BY PLENIPOTENTIARY CONFERENCE; THAT JIU REPORTS ONLY BE CIRCULATED TO COUNCIL; THAT "IT IS THE UNDERSTANDING OF THE COUNCIL THAT THE STUDIES AND OPINIONS OF IFRB DONE IN UNCLASSIFIED

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PERFORMANCE OF ITS REGULATORY FUNCTIONS ARE NOT RELEVANT UNDER ARTICLE 6 TO THE FUNCTIONS, POWERS, AND RESPONSIBILITIES OF THE JIU."

5. AT 32ND SESSION, ONLY AUSTRALIA JOINED US IN SUPPORT OF IMMEDIATE ACCEPTANCE OF STATUTE ALTHOUGH IT HAD SOME RESERVATIONS OF ITS OWN. OTHER MEMBERS QUESTIONED, INTER ALIA, ABILITY OF COUNCIL TO ACCEPT THE STATUTE WITH RESERVATIONS. ULTIMATELY, COUNCIL DECIDED NOT TO APPROVE STATUTE AND TO REQUEST LEGAL OPINION FROM UN ON PROPRIETY OF THESE RESERVATIONS.

6. USUN REQUESTED TO INDICATE OUR VIEWS ON THIS MATTER TO

LEGAL SECTION OF UN.MISSION SHOULD MAKE FOLLOWING POINTS:

--WE DO NOT SEE ANY LEGAL OBSTACLE TO ACCEPTANCE WITH RESERVATIONS OF JIU STATUTE BY THE SPECIALIZED AGENCIES IF THOSE RESERVATIONS ARE NOT SO SUBSTANTIAL AS TO FRUSTRATE THE PURPOSES OF THE JIU

--WITH RESPECT TO FIRST RESERVATION, NOT ALL SPECIALIZED

AGENCIES CAN CONSTITUTIONALLY CREATE SUBSIDIARY BODIES IMMEDIATELY. SOME MUST AWAIT THE CONVENING OF THEIR CONSTITUENT BODIES. IN THE CASE OF ITU, THE PLENIPOTENTIARY CONFERENCE DOES NOT MEET UNTIL 1980-1982 TIME FRAME. PROVISION MUST BE MADE FOR CONTINUED COOPERATION BETWEEN AGENCIES WITH THIS PROBLEM AND THE JIU.

-- WITH RESPECT TO SECOND RESERVATION, USUN SHOULD STRESS THAT PLENIPOTENTIARY CONFERENCE ;TSELF HAS DECIDED TO LIMIT REQUIRED DISTRIBUTION OF JIU REPORTS TO COUNCIL AND THAT ALL MEMBERS COULD EASILY OBTAIN REPORTS FROM THE COUNCIL. THUS, THIS RESERVATION WOULD NOT FRUSTRATE PURPOSE OF JIU.

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-- WITH RESPECT TO THIRD RESERVATION, USUN SHOULD STRESS RESERVATION HAS BEEN NARROWLY WORDED TO APPLY ONLY TO VERY SENSITIVE INFORMATION WHICH IS UNIQUE TO ONE OF THE FUNCTIONS OF THE ITU. ASIDE FROM PROHIBITING ACCESS TO ONLY A SMALL AMOUNT OF INFORMATION, RESERVATION ONLY AFFECTS MATERIAL WHICH WOULD NOT ORDINARILY BE OF INTEREST TO JIU. VANCE

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